

**THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**DATE** 4/26/2023

**DISTRICT JUDGE**  
**Amos L. Mazzant, III**

**COURT REPORTER:** Chris Bickham  
**COURTROOM DEPUTY:** Keary Conrad

|                                                         |                                      |
|---------------------------------------------------------|--------------------------------------|
| UNITED STATES OF AMERICA                                |                                      |
| V.                                                      | CASE NUMBER 4:20CR212                |
| DEBRA MERCER-ERWIN (1)                                  |                                      |
| <b>ATTORNEY FOR GOVERNMENT</b>                          | <b>ATTORNEY FOR DEFENDANT</b>        |
| Ernest Gonzalez, Heather Rattan and Lesley Brooks, AUSA | Matthew Cyran, Joe White, Kate White |

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

| <b>TIME:</b> | <b>MINUTES: Jury Trial – Day 11</b>                                                                                                                                                                                                                        |
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| 8:11 a.m.    | Court in session. Court notes appearance of counsel.                                                                                                                                                                                                       |
| 8:11 a.m.    | The Court takes up the optional completeness issue regarding Defendant's Exhibit 4C. The Court will allow the full exhibit. Defendant's Exhibit 4C is fully admitted.                                                                                      |
| 8:12 a.m.    | Court hears from Government AUSA Lesley Brooks regarding <i>Brady, Jencks</i> and reciprocal discovery.                                                                                                                                                    |
| 8:15 a.m.    | Court recess.                                                                                                                                                                                                                                              |
| 8:22 a.m.    | Court re-convened. Jury seated.                                                                                                                                                                                                                            |
| 8:22 a.m.    | Defendant's counsel, Joe White re-cross examination of Special Agent Jesus Villareal.                                                                                                                                                                      |
| 8:48 a.m.    | Bench conference at request of the Government.                                                                                                                                                                                                             |
| 8:51 a.m.    | Defendant's counsel, Joe White offers Defendant's Exhibit 204. The Court fully admits Defendant's Exhibit 204.                                                                                                                                             |
| 9:03 a.m.    | Pass the witness. Government AUSA Ernest Gonzalez begins re-direct examination of Special Agent Jesus Villareal.                                                                                                                                           |
| 9:11 a.m.    | Pass the witness. Defendant's counsel, Joe White re-cross examination of Special Agent Jesus Villareal.                                                                                                                                                    |
| 9:18 a.m.    | Witness excused.                                                                                                                                                                                                                                           |
| 9:18 a.m.    | Bench conference at request of the Government.                                                                                                                                                                                                             |
| 9:21 a.m.    | Government AUSA Ernest Gonzalez recalls Special Agent Justin Marshall.                                                                                                                                                                                     |
| 9:37 a.m.    | Pass the witness. Defendant's counsel, Joe White cross examination of Special Agent Justin Marshall.                                                                                                                                                       |
| 10:09 a.m.   | Defendant's counsel, Joe White offers Defendant's Exhibit 205. Government objection to foundation. Defendant's counsel, Joe White re-offers Defendant's Exhibit 205. Government further objection to authentication. Court sustained Government objection. |
| 10:12 a.m.   | Jury excused for break.                                                                                                                                                                                                                                    |

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| 10:15 a.m. | Court recess for 15 minutes.                                                                                                                                                                                                                                                                                                                              |
| 10:31 a.m. | Court re-convened. Jury seated.                                                                                                                                                                                                                                                                                                                           |
| 10:32 a.m. | Defendant's counsel, Joe White continues cross examination of Special Agent Justin Marshall.                                                                                                                                                                                                                                                              |
| 10:36 a.m. | Witness excused. Government rests.                                                                                                                                                                                                                                                                                                                        |
| 10:37 a.m. | Court hears from Defendant's counsel, Matthew Cyran regarding Dkt. #317 – Motion for pretrial james hearing (which the Court previously denied). Counsel requests a cautionary instruction to the jury. Counsel continues with argument for Rule 29 motion by count.                                                                                      |
| 10:49 a.m. | Court hears response from Government AUSA Ernest Gonzalez to Rule 29 motion and response argument regarding <i>James</i> hearing.                                                                                                                                                                                                                         |
| 10:57 a.m. | Court denies Defendant's Rule 29 motion.                                                                                                                                                                                                                                                                                                                  |
| 11:02 a.m. | Jury seated.                                                                                                                                                                                                                                                                                                                                              |
| 11:03 a.m. | Defendant's counsel, Joe White calls Jonathan Epstein. Witness placed under oath. Defendant's counsel, Joe White begins direct examination of Jonathan Epstein.                                                                                                                                                                                           |
| 11:47 a.m. | Jury excused for lunch break.                                                                                                                                                                                                                                                                                                                             |
| 11:48 a.m. | Court recess for lunch break.                                                                                                                                                                                                                                                                                                                             |
| 1:01 p.m.  | Court re-convened. Jury seated.                                                                                                                                                                                                                                                                                                                           |
| 1:02 p.m.  | Defendant's counsel, Joe White continues direct examination of Jonathan Epstein.                                                                                                                                                                                                                                                                          |
| 1:05 p.m.  | Defendant's counsel, Joe White offers Defendant's Exhibit 300. Government objection to hearsay. Court sustained Government's objection. Defendant's counsel, Joe White re-offers Defendant's Exhibit 300. Government continue objection to hearsay. Court overrules Government objection to Defendant's Exhibit 300. Defendant's Exhibit 300 is admitted. |
| 1:51 p.m.  | Defendant's counsel, Joe White offers Defendant's Exhibit 303. No objection. Defendant's Exhibit 303 is admitted.                                                                                                                                                                                                                                         |
| 1:52 p.m.  | Bench conference at the request of the Government.                                                                                                                                                                                                                                                                                                        |
| 1:53 p.m.  | Court sustained objection of the Government. Defendant's counsel, Joe White continues direct examination of Jonathan Epstein.                                                                                                                                                                                                                             |
| 1:54 p.m.  | Pass the witness. Government AUSA Lesley Brooks begins cross examination of Jonathan Epstein.                                                                                                                                                                                                                                                             |
| 2:35 p.m.  | Pass the witness. Witness excused.                                                                                                                                                                                                                                                                                                                        |
| 2:35 p.m.  | Defendant's counsel, Joe White calls Fe Lane. Witness placed under oath. Defendant's counsel, Joe White begins direct examination of Fe Lane.                                                                                                                                                                                                             |
| 3:08 p.m.  | Jury excused for afternoon break.                                                                                                                                                                                                                                                                                                                         |
| 3:09 p.m.  | Court recess for 15 minutes.                                                                                                                                                                                                                                                                                                                              |
| 3:27 p.m.  | Court re-convened. Jury seated.                                                                                                                                                                                                                                                                                                                           |
| 3:29 p.m.  | Defendant's counsel, Joe White continues direct examination of Fe Lane.                                                                                                                                                                                                                                                                                   |
| 3:42 p.m.  | Defendant's counsel, Joe White offers Defendant's Exhibit 3D (pgs. 1-10).                                                                                                                                                                                                                                                                                 |
| 3:45 p.m.  | Government requests bench conference.                                                                                                                                                                                                                                                                                                                     |
| 3:50 p.m.  | Defendant's Exhibit 3D pgs. 1-10 are admitted (with redactions discussed at bench conference).                                                                                                                                                                                                                                                            |
| 3:51 p.m.  | Defendant's counsel, Joe White continues direct examination of Fe Lane.                                                                                                                                                                                                                                                                                   |
| 4:09 p.m.  | Government AUSA, Ernest Gonzalez takes witness on voir dire. Government objects to improper foundation.                                                                                                                                                                                                                                                   |
| 4:10 p.m.  | Defendant's counsel, Joe White offers Defendant's Exhibit 3A (pgs. 1-38). Government objection sustained.                                                                                                                                                                                                                                                 |

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| 4:12 p.m. | Defendant's counsel, Joe White re-offers Defendant's Exhibit 3A (pgs. 1-38). Government objection sustained.                                                                                                                                                                                                   |
| 4:14 p.m. | Pass the witness. Government AUSA Ernest Gonzalez begins cross examination of witness, Fe Lane.                                                                                                                                                                                                                |
| 4:22 p.m. | Pass the witness. Defendant's counsel, Joe White re-direct examination of witness, Fe Lane.                                                                                                                                                                                                                    |
| 4:23 p.m. | Witness excused.                                                                                                                                                                                                                                                                                               |
| 4:23 p.m. | Defendant's counsel, Joe White calls Gary Evans.                                                                                                                                                                                                                                                               |
| 4:23 p.m. | Bench conference at the request of Government.                                                                                                                                                                                                                                                                 |
| 4:30 p.m. | Defendant's counsel, Joe White calls Scott McCreary. Witness placed under oath. Defendant's counsel, Joe White begins direct examination of Scott McCreary.                                                                                                                                                    |
| 5:00 p.m. | Jury excused.                                                                                                                                                                                                                                                                                                  |
| 5:01 p.m. | Court hears from Government regarding Jencks and reciprocal discovery for McCreary and requests that defense provide tonight prior to tomorrow's testimony. Court requests Defendant's counsel provide Jencks and reciprocal discovery to Government regarding any witnesses for tomorrow timely this evening. |
| 5:03 p.m. | Court inquires as to timing of Defendant's case. Defendant advises that there are 2 more witnesses.                                                                                                                                                                                                            |
| 5:04 p.m. | Court advises defense counsel to have Gary Evans available at 8:05 a.m. to make offer of proof.                                                                                                                                                                                                                |
| 5:06 p.m. | Parties discuss charge conference timing. Court requests the Parties email the Court's lawyer any changes, objections or otherwise to the current charge this evening to make the charge conference tomorrow go smoother.                                                                                      |
| 5:08 p.m. | Court adjourned.                                                                                                                                                                                                                                                                                               |
|           | <b>Govt Exhibits Admitted:</b><br><b>Demo Only:</b><br><b>Deft Exhibits Admitted:</b> 3D (pgs. 1-10, with redactions) 4C(fully), 204, 300, 303                                                                                                                                                                 |

**DAVID O'TOOLE, CLERK**

BY: Keary Conrad  
Courtroom Deputy Clerk